

McKinney-Vento Homeless Education Program

Dispute Resolution Procedures

Tips for Establishing an Effective Dispute Resolution Process

In establishing a strong effective dispute resolution process, LEAs may also consider including the following items in information distributed to parents, guardians, or unaccompanied youths when informing them of decisions regarding enrollment:

- Notice of the right to file a complaint, raise a compliance issue, or file an appeal;
- A step-by-step description of how to appeal the school's decision that includes a simple form parents, guardians, or unaccompanied youths can complete and submit to the school to initiate the dispute process. Copies should be provided to the parent, guardian, or youth for their records;
- Notice that, if the parent, guardian, or unaccompanied youth are English learners, use a native language other than English, or need additional supports because of a disability, translators, interpreters, or other support services will be made available without charge in the appropriate language;
- Notice of the right to be enrolled immediately in the school in which enrollment is sought pending final resolution of the dispute;
- Notice that immediate enrollment includes receiving adequate and appropriate transportation to and from the school of origin and the ability to fully participate in all school activities;
- List of legal and advocacy service providers in the area that can provide additional assistance during any part of the process;
- Contact information for the local liaison and State Coordinator, with a brief description of their roles; and
- Timelines for resolving district- and State-level appeals.

These processes may include, but are not limited to, any administrative procedures adopted by the LEA for addressing matters such as parent or student complaints, attendance, credit recovery, or grade placement. In some circumstances, additional concerns may be appropriately addressed in an Individualized Education Program (IEP) team meeting or a Section 504 placement team meeting. Other appropriate processes may include investigation of matters related to bullying, sexual harassment, or illegal discrimination.

To view the Department's homeless initiatives webpage, please visit:

<http://www2.ed.gov/about/inits/ed/supportinghomeless-students/index.html>.

Dispute Resolution Procedures

Dispute Resolution Q & A

K-1. Under the McKinney-Vento Act, are States required to have procedures to resolve disputes regarding educational placement of homeless children and youths?

Yes. Every State must have procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths. (See section 722(g)(1)(C)). In addition, some LEAs have their own written dispute resolution policy that describes procedures for resolving disputes at the local level. Because these policies should be consistent with the State dispute resolution policy, a State may wish to provide technical assistance to LEAs in developing a strong local dispute resolution policy or even provide a common local policy that each LEA can adopt. The benefit of a common local dispute policy is to create consistency as homeless students move across school district lines due to their homelessness.

K-2. What procedures must an LEA follow if a dispute arises between a school and a parent, guardian, or unaccompanied youth or guardian regarding eligibility, school selection, or enrollment of a homeless child or youth?

If a dispute arises over eligibility, school selection, or enrollment, the LEA must immediately enroll the homeless student in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals. (Section 722(g)(3)(E)(i)). The dispute resolution policy should also consider that the statutory definition of “enroll” and “enrollment” includes attending classes and participating fully in school activities. (See section 725(1)). Therefore, dispute resolution procedures at the LEA and SEA level should address barriers to attending classes and fully participating in school activities. Inter-district enrollment disputes should be resolved at the SEA level (See question K-8).

Homeless families and youths may be unaware of their right to challenge placement and enrollment decisions. Therefore, the LEA must provide the parent, guardian, or unaccompanied youth with a written explanation of any decisions related to school selection or enrollment made by the school, the LEA, or the SEA involved, along with a written explanation of the appeal rights. (Section 722(g)(3)(E)(ii)). The LEA must refer the unaccompanied youth, parent, or guardian to the local liaison, who must carry out the dispute resolution process established by the SEA as expeditiously as possible. (Section 722(g)(3)(B)(iii)). The local liaison should assist the child and family in preparing the appeal and should make the resources of the school (e.g., copying, mailing, or obtaining records) available to the parent, guardian, or unaccompanied youth.

K-3. What elements should be included in the written explanation of the enrollment decision and the right to appeal this decision?

If a dispute arises over eligibility, school selection, or enrollment in a school, the parent, guardian, or unaccompanied youth must be provided with a written explanation of any decisions related to eligibility, school selection, or enrollment made by the school, the LEA, or the SEA involved, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions.

(Section 722(g)(3)(E)(ii)). Notice and written explanation from the LEA about the reason for its decision, at a minimum, should include the following:

- An explanation of how the school reached its decision regarding eligibility, school selection, or enrollment, which should include:
 - A description of the action proposed or refused by the school;
 - An explanation of why the action is proposed or refused;
 - A description of any other options the school considered;
 - The reasons why any other options were rejected;
 - A description of any other factors relevant to the school's decision and information related to the eligibility or best interest
 - determination including the facts, witnesses, and evidence relied upon and their sources;
 - Appropriate timelines to ensure any relevant deadlines are not missed; and

K-4. How can an LEA ensure that the written explanation of its decision or determination and the notice to appeal is in a manner and form understandable to a parent, guardian, or unaccompanied youth?

The LEA should ensure that all decisions and notices are drafted using language and formatting appropriate for low-literacy, limited vision readers, and individuals with disabilities.

For children and youth and/or their parents or guardians who are English learners or whose dominant language is a language other than English, LEAs must provide translation and interpretation services in connection with all stages of the dispute resolution process, consistent with the requirements of the Equal Educational Opportunities Act (20 U.S.C. 1701 et seq.) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

If the parent, guardian, or unaccompanied youth has access to email, the LEA should provide notices electronically followed by a written notice provided in person or sent by mail.

K-5. What types of situations fall outside of the parameters of the McKinney-Vento Act dispute resolution process?

Not all eligibility or enrollment disputes initiated by a parent, guardian, or unaccompanied youth are eligible to go through a dispute resolution process at the LEA or SEA level. For example, when the child or youth is not residing in a homeless situation in the boundaries of an LEA, but the parent, guardian, or

unaccompanied homeless youth seeks to initiate an enrollment dispute in that particular LEA. Or, for example, a parent, guardian, or unaccompanied youth may wish to use the dispute resolution process to resolve a disagreement that is unrelated to the McKinney-Vento Act, such as a special education issue. In these cases, the LEA should refer the parent, guardian, or unaccompanied youth to the program or administrator that would more effectively address the complaint.

K-7. What are effective strategies for LEAs and SEAs to use to resolve enrollment disputes?

LEAs and SEAs should consider the following strategies for effectively resolving disputes:

- Resolve disputes at the district level rather than the school level;
- Create an option for an informal process as an alternative to formal appeals, which should be in place but must not waive the parent's, guardian's, or unaccompanied youth's access to a more formal process if the informal resolution is not successful;
- Inform parents, guardians, and unaccompanied youths that they can bring a lawyer, a non-lawyer advocate, or any other person to assist them in such a proceeding or appeal;
- Ensure that any written notice is complete, as brief as possible, simply stated, tailored to limited literacy readers, and provided in a language and format the parent, guardian, or unaccompanied youth can understand.
- When inter-district issues arise, ensure representatives from all involved districts and the SEA are present to resolve the dispute;
- A State-level appeal process, involving the State Coordinator, should be available for appeals of district-level decisions and resolution of inter-district disputes;
- Any communication to the State Coordinator should be provided to all parties involved to ensure fairness;
- The dispute resolution process should be as informal and accessible as possible, including not requiring unnecessary notarization or authentication of documents or other materials submitted, not requiring strict legal evidentiary standards, and allowing for impartial and complete review;
- Parents, guardians, and unaccompanied youths should be able to initiate the dispute resolution process directly at the school they choose, as well as at the district or local liaison's office;
- States should establish timelines to resolve disputes at the local and State level. The dispute resolution should be prompt but not sacrifice equitability and fairness;
- Parents, guardians, and unaccompanied youths should be informed that they can provide written or oral documentation to support their position;
- Parents, guardians, and unaccompanied youths should be given the opportunity to challenge the school system's assertions; and

Students must receive all services for which they are eligible until final resolution of all disputes and appeals. (See sections 722(g)(3)(E)(i) and (iv)).

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Tips for Promoting Supportive Discipline and a Positive School Climate for Homeless Students

Homeless children and youths face many challenges outside of the classroom. It is critical for schools, therefore, to provide safe and supportive climates for homeless students and to employ fair discipline strategies. Removing students from school (e.g., by suspending a student) should be used only as a last resort; this is particularly important due to the high mobility of homeless students and the lack of access to food and other services that out of school suspension or expulsion may cause.

SEAs and LEAs should:

- Create awareness among educators and administrators of the types of behaviors that might be related to a student's homelessness and provide strategies to assist the students;
- Ensure that, prior to taking disciplinary action, school personnel consider issues related to a student's homelessness. This may be especially relevant when students accumulate absences and tardies related to a change of caregivers or nighttime residence;
- Review discipline records for individual schools to identify patterns in punishment that could indicate an unfair bias against students experiencing homelessness;
- Consult with school behavior response teams to assign discipline corresponding to the behavior;
- Assign advocates for students and consult them appropriately as decisions are made;
- Determine the key contact—caregiver, student, parent, or guardian—with whom to address truancy and other behavioral issues;
- Provide information to school personnel regarding how trauma can impact student behavior and how to mitigate the effects of trauma in the school environment by providing trauma-informed support;
- Connect homeless students with mental health services as needed;
- Work with community agencies to provide mentoring or other support;
- Make referrals to parenting classes as needed for pregnant and parenting youths;
- Provide clear and specific expectations of appropriate class and school behavior, positive and consistent classroom management practices, and frequent positive interactions with teachers and staff members;
- Encourage teachers to establish nurturing and culturally responsive classrooms to ensure that all students feel a sense of belonging and value;
- Implement discipline alternatives to suspensions or separating homeless children and youths from their peers; and
- Implement a schoolwide approach to positive and proactive behavioral support systems and behavioral interventions for at-risk students.

For more information on supportive school discipline, please see

<http://www2.ed.gov/policy/gen/guid/schooldiscipline/fedefforts.html#guidance>.